

**IN THE UNITED STATES COURT OF FEDERAL CLAIMS**

BRYNDON FISHER and BRUCE REID,  
derivatively on behalf of Federal National  
Mortgage Association,

Plaintiffs,

v.

THE UNITED STATES OF AMERICA,

Defendant.

and FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Nominal Defendant.

Case No. 13-cv-00608-MMS  
(Judge Sweeney)

ERICK SHIPMON, derivatively on behalf  
of Federal National Mortgage Association,

Plaintiff,

v.

THE UNITED STATES OF AMERICA,

Defendant.

and FEDERAL NATIONAL MORTGAGE  
ASSOCIATION,

Nominal Defendant.

Case No. 13-cv-00672-MMS  
(Judge Sweeney)

**DECLARATION OF ROBERT C. SCHUBERT IN SUPPORT OF PLAINTIFFS'  
MOTION FOR CONSOLIDATION OF SHAREHOLDER  
DERIVATIVE ACTIONS AND APPOINTMENT OF LEAD COUNSEL**

I, Robert C. Schubert, hereby declare under penalty of perjury as follows:

1. I am the Senior Partner at the firm Schubert Jonckheer & Kolbe LLP (“Schubert Jonckheer”). I am Attorney of Record and co-counsel, along with Edward F. Haber of Shapiro Haber & Urmy LLP (“Shapiro Haber”), for Plaintiffs Bryndon Fisher, Bruce Reid, and Erick Shipmon (collectively, the “Derivative Plaintiffs”). I respectfully submit this declaration in support of the Derivative Plaintiffs’ Motion for Consolidation of Shareholder Derivative Actions and Appointment of Lead Counsel.

2. On behalf of the Derivative Plaintiffs, my firm, along with co-counsel Shapiro Haber, filed two shareholder derivative actions pending in this Court captioned *Fisher v. United States*, No. 13-cv-00608-MMS, and *Shipmon v. United States*, No. 13-cv-00672-MMS (together, the “Derivative Actions,” and, if consolidated, the “Consolidated Derivative Action”). My firm, along with Shapiro Haber, conducted an extensive investigation into facts and legal issues involved in the actions, including but not limited to: (1) the Government’s imposition of the Net Worth Sweep, as defined in the complaints filed in the Derivative Actions; (2) the validity of a Takings Claim under the Fifth Amendment; (3) the application of sovereign immunity to actions for money damages against the U.S. government; (4) the applicable standards regarding demand futility under Delaware law and RCFC 23.1; (5) the requirements for standing under the Housing and Economic Recovery Act of 2008; and (6) the procedures for litigating actions in the U.S. Court of Federal Claims.

3. Schubert Jonckheer is a law firm based in San Francisco, California that specializes in the prosecution of complex civil actions, particularly securities class actions and shareholder derivative actions. Together with its predecessor firms, it has been in operation for over thirty years. Schubert Jonckheer & Kolbe LLP has been Lead Counsel or Co-Lead Counsel

in class actions and shareholder derivative cases which have produced recoveries valued at over \$800 million. The firm has been actively involved in securities fraud, antitrust, unfair competition, and employment class actions throughout the United States. The firm has extensive experience in both trials and appeals in state and federal courts nationwide and has recovered hundreds of millions of dollars for investors, employees, and consumers. The professional credentials of the partners and associates of Schubert Jonckheer and their extensive experience in prosecuting class actions and shareholder derivative actions are detailed in the Schubert Jonckheer firm resume, which is attached hereto as **Exhibit 1**.

4. Although Schubert Jonckheer's extensive relevant experience is set forth in Exhibit 1, I highlight in this declaration particular firm experience that is relevant to Schubert Jonckheer's qualifications to support proposed Lead Counsel and Attorney of Record Robert C. Schubert in this case. In particular, Schubert Jonckheer has extensive experience prosecuting complex shareholder derivative actions. Most notably, Schubert Jonckheer served as Co-Lead Counsel in a shareholder derivative action on behalf of HealthSouth Corporation alleging breaches of fiduciary duty and insider trading arising from a multi-billion dollar restatement of previously reported financial results. The case returned a nearly \$3 billion judgment against former CEO Richard Scrushy after an eleven-day trial, as well as other company officers and directors, and was affirmed by the Alabama Supreme Court. *See Tucker v. Scrushy, et al.*, No. CV-02-5212.

5. Among its major cases, Schubert Jonckheer served as Co-Derivative Counsel and obtained a \$205 million settlement in a shareholder derivative action involving Marsh & McLennan Companies, the world's largest insurance broker. The firm also served as Co-Counsel in a class action involving false advertising of Fujitsu products, obtaining a nationwide

settlement of \$42.5 million; Co-Lead Counsel in an antitrust class action involving 3M transparent tape, obtaining a \$42 million settlement; and Co-Lead Counsel in a securities class action against Bonneville Pacific, returning a \$26 million class settlement.

6. Earlier this year, Schubert Jonckheer, acting as Lead Counsel in a shareholder-derivative action involving Toll Brothers alleging breaches of the officers' and directors' fiduciary duties, recovered \$16.25 million for the company, including substantial payments from the company's founders. During the course of the case, the firm also won a key legal ruling rejecting defendants' arguments that Delaware's leading insider trading precedent, *Brophy v. Cities Services Co.*, 70 A.2d 5 (Del. Ch. 1949), was outdated and should be overruled.

7. Among other notable shareholder-derivative actions, Schubert Jonckheer has served as Lead or Co-Lead Counsel in actions involving Qwest Communications (\$25 million recovery), Ash Grove Cement Company (\$15 million recovery), Valin Corporation (\$12.5 million recovery), ADAC Laboratories (\$10.5 million recovery), and Diamond Foods (\$10.5 million recovery).

8. In sum, Schubert Jonckheer has substantial, relevant experience and expertise, especially in shareholder-derivative actions, that make it an ideal firm to support the proposed Lead Counsel and Attorney of Record, Robert C. Schubert in the prosecution of the proposed Consolidated Derivative Actions.

9. As detailed in the complaints that we prepared and filed in the Derivative Actions, Schubert Jonckheer and Shapiro Haber represent three plaintiffs with substantial holdings in Fannie Mae common stock, and we are thus committed to maximizing relief for Fannie Mae. We have prosecuted and will continue to prosecute vigorously the claims against the United States.

10. Schubert Jonckheer has substantial resources that it intends to commit to this case. Schubert Jonckheer typically prosecutes its class and derivative actions on a contingent fee basis, including advancing significant out-of-pocket expenses incurred. Schubert Jonckheer is ready, willing, and able to invest its attorneys and financial resources in prosecuting the proposed Consolidated Derivative Action on behalf of Fannie Mae.

11. At this time, Schubert Jonckheer has committed three attorneys to directly participate in the case, each of whom has extensive experience in shareholder derivative actions and other securities actions. In the event the workload in the proposed Consolidated Derivative Action requires more attorney participation, my firm will assign additional firm attorneys to perform that work. Schubert Jonckheer also employs paralegal and administrative support staff who will be available to assist with this matter. Schubert Jonckheer is also fully willing to make any investment in the case necessary to procure the best possible result for Fannie Mae, including but not limited to the hiring of expert witnesses or other consultants to advance Fannie Mae's interests.

I declare under penalty of perjury that the foregoing is true and correct.

Dated: October 29, 2013

/s/ Robert C. Schubert \_\_\_\_\_  
Robert C. Schubert

# EXHIBIT 1

## SCHUBERT JONCKHEER & KOLBE LLP

### PRACTICE AND HISTORY

**Schubert Jonckheer & Kolbe LLP** is AV rated by the Martindale-Hubbell Law Directory. Together with its predecessor firms, it has been in operation for thirty years. In addition to prosecuting cases in the California federal and state courts, the firm has been actively involved in securities, antitrust, unfair competition, and employment class actions throughout the United States. Schubert Jonckheer & Kolbe LLP has been Lead Counsel or Co-Lead Counsel in class actions and shareholder derivative cases which have produced recoveries valued at over \$800 million. These have included the following:

**Tucker v. Scrushy, et al.**, No. CV-02-5212 (Alabama Circuit Court, Jefferson County). Co-Lead Counsel in shareholder derivative action on behalf of HealthSouth Corporation alleging breaches of fiduciary duty and insider trading arising from a multi-billion dollar restatement of previously reported financial results. Partial summary judgment for unjust enrichment granted against former CEO Richard Scrushy for restitution to HealthSouth of \$47.8 million bonuses with interest paid to Scrushy during fiscal years 1997-2002 pursuant to a stated policy requiring that bonuses be paid from net profits. In fact, following restatement, it was revealed that the Company had never had net profits from which to pay Scrushy bonuses during the fiscal years 1997-2002. The judgment was affirmed on appeal to the Alabama Supreme Court, **Scrushy v. Tucker**, 955 So.2d 988 (Ala. 2006). Plaintiffs thereafter settled HealthSouth's claims against additional HealthSouth directors and officers for \$100 million, and against its investment bankers, UBS Securities LLC, for an additional \$133 million. Co-Counsel in a related case, **In re HealthSouth Corp. Shareholders Litigation.**, 845 A.2d 1096 (Del. Ch. 2003), aff'd 847 A.2d 1121 (Del. 2004), in which the Delaware Chancery Court granted summary judgment for unjust enrichment and equitable fraud against Richard Scrushy arising from his purported repayment with HealthSouth stock of a \$25 million loan that Scrushy was obligated to pay in cash. The judgment resulted in an immediate \$17.5 million recovery to HealthSouth. We also helped obtain an additional judgment of \$2.9 billion against Richard Scrushy after an eleven day non-jury trial—a result upheld by the Alabama Supreme Court—and are pursuing claims in arbitration against Ernst & Young, HealthSouth's former auditors. We have collected approximately \$300 million in judgments and settlements to date for the benefit of HealthSouth, and are in the process of executing on the judgment against Scrushy.

**In re Marsh & McLennan Companies, Inc. Derivative Litigation**, No. CA No. 753-VCS (Delaware Court of Chancery). The Schubert Firm as co-derivative counsel helped obtain a \$205 million settlement in a shareholder derivative action brought on behalf of Marsh & McLennan Companies (MMC). The complaint alleged that MMC, the world's largest insurance broker, failed to adequately disclose to its clients that it was paid contingent commissions to steer insurance business to favored insurance companies. When these practices were revealed, MMC agreed to pay huge fines, to the detriment of its shareholders.

**Hurkes Harris Design Associates, Inc. v. Fujitsu Computer Products of America, Inc.**, Case No. CV 812127 (California Superior Court, Santa Clara County). Co-counsel in class action alleging false advertising and unfair competition in the marketing, advertising, sale and servicing of the Fujitsu MPG-3xxx series and MPF-3xxx-AH series desktop magnetic computer hard disk drive models. We obtained a settlement on behalf of a nationwide class of \$42.5 million.

**3M Transparent Tape Cases** (United States District Court, Northern District of California, Case No. 00-2810-CW). Co-Lead counsel for plaintiffs in a class action brought on behalf of purchasers of 3M transparent tape. Plaintiffs alleged that 3M unlawfully maintained a monopoly in the market for invisible and transparent home and office tape through various arrangements, contracts, agreements, trusts and combinations in restraint of trade designed primarily to restrict the availability of lower priced transparent tape products to consumers and to maintain high retail prices for its Scotch Brand retail products. We obtained a nationwide settlement valued at approximately \$42 million.

**Bonneville Pacific Corporation Securities Litigation**, No. 92-C-181-S (District of Utah). Co-Lead Counsel in securities class action involving fraudulent financial statements by a large power cogeneration company. We obtained settlements totaling \$26 million for the class, which recovered 100% of its damages, in one of the largest securities fraud cases in Utah history. We also obtained a decision from the Utah Supreme Court holding that plaintiffs need not plead or prove reliance to proceed under the Utah Uniform Securities Act. **Gohler v. Wood**, 919 P. 2d 561 (Utah 1996).

**Qwest Communications International, Inc. Derivative Litigation**, No. 02-CV-8188 (Colorado District Court, City and County of Denver). Co-Lead Counsel in shareholder derivative action alleging officer and director breaches of fiduciary duty and insider trading arising out of massive earnings restatement by telecommunications company. Defendants attempted to derail the case, seeking a stay based upon previously filed but inactive Federal derivative action. We defeated the motion, reviewed and analyzed over 7 million pages of documents, and recovered \$25 million for the company. The settlement included important corporate governance changes, including the requirement of a lead independent director when the chairman of the board is also the chief executive officer.

**Pfeiffer v. Toll**, Civil Action No. 4140-VCL (Delaware Chancery Court). Lead Counsel in shareholder derivative action alleging officer and director breaches of fiduciary duty arising out of sharp stock drop following failure of luxury homebuilder to achieve optimistic earnings projections. We recovered \$16.25 million for the company, which included substantial payments from company founders. During the course of the case we obtained a key legal ruling rejecting defendants' arguments that Delaware's leading insider trading precedent, Brophy v. Cities Services Co., 70 A.2d 5 (Del. Ch. 1949) was outdated and should be overruled.

**Kirschenbaum v. Electronic Arts, Inc.**, Case No. CIV 440876 (California Superior Court, San Mateo County). Co-Lead Counsel in class action seeking to recover unpaid overtime compensation for computer graphics artists employed in California by Electronic Arts Inc. ("EA"), the world's largest manufacturer of computer video games. The case was settled after the parties conducted formal and informal discovery, and we reviewed thousands of pages of company records. The settlement totaled \$15.6 million, for approximately 618 class members. We believe this is the first class action involving recovery of overtime compensation for computer graphics artists in the electronic game industry.



**Raider v. Sunderland**, Civil Action No. 19357 NC (Delaware Chancery Court). Co-Lead Counsel in shareholder class action alleging breach of fiduciary duty by controlling shareholders of large cement company in connection with its acquisition of related company owned by controlling shareholders. We recovered \$15 million (\$8 per share) for minority shareholders after obtaining class certification, reviewing approximately 30,000 documents, deposing numerous fact and expert witnesses, and preparing the case for trial. The recovery exceeded 50% of the damage calculation of plaintiff's valuation expert.

**Hasty v. Electronic Arts, Inc.**, Case No. 444821 (California Superior Court, San Mateo County). Co-Lead Counsel in class action seeking to recover unpaid overtime compensation for current and former computer programmers employed in California by Electronic Arts Inc. ("EA"), the world's largest manufacturer of computer video games. The case was settled after the parties conducted formal and informal discovery, including numerous depositions and review of thousands of pages of company records. The settlement totaled \$14.9 million, for approximately 600 class members. We believe this is the first class action involving recovery of overtime compensation for computer programmers in California.

**Shea v. Vidinsky**, Case No. CIV CGC-04-437473 (California Superior Court, San Francisco County). Counsel in derivative case brought on behalf of Valin Corporation alleging breach of fiduciary duty, abuse of control, waste of corporate assets, violation of Cal. Corp. Code sections 25402 and 25403, constructive fraud and unjust enrichment. In response to the lawsuit, Valin's Board of Directors appointed a Special Litigation Committee ("SLC"). Faced with separate summary judgment motions brought by the SLC and by individual defendants, we successfully obtained a settlement for the Corporation valued at over \$12.5 million.

**ADAC Laboratories Derivative Litigation**, No. CV 779262 (California Superior Court, Santa Clara County). Co-Lead Counsel in shareholder derivative action alleging officer and director breaches of fiduciary duty and insider trading arising from false financial statements issued by a scientific instruments manufacturer. These financial statements were restated after "side letters" and other improper revenue recognition practices were uncovered. Defendants sought a stay based upon federal securities class actions arising from the same facts. We defeated that motion, obtained thousands of documents well ahead of the federal actions, and recovered \$12 million for the company, representing the bulk of its insurance coverage.

**Diamond Foods Shareholder Derivative Litigation**, Case No. CGC 11-515895 (California Superior Court, San Francisco County). Co-lead counsel in shareholder derivative action alleging officer and director breaches of fiduciary duty arising from false financial statements issued by leading walnut producer and snack foods company. We achieved a financial recovery of \$10.5 million for the company plus extensive corporate governance reforms designed to prevent recurrence of corporate misconduct.

**Franz Inc. v. Quantum Corporation**, Case No. CGC-03-423301 (California Superior Court, San Francisco County). Co-lead Counsel in class action brought on behalf of California businesses and residents who purchased DLTape IV<sup>TM</sup> tapes, claiming price fixing and other anticompetitive actions. We obtained a class action settlement valued at \$10.35 million.

**In re OSB Antitrust Litigation** (U.S. District Court, Eastern District of Pennsylvania, Master File No. 06-826). Co-Lead Counsel for certified class of indirect purchasers of Oriented Strand Board (“OSB”). Plaintiffs alleged a conspiracy among eight major OSB manufacturers to inflate OSB prices by restricting production and other anticompetitive practices, in violation of the Sherman Antitrust Act and numerous state antitrust laws. We obtained a settlement of \$9.94 million on behalf of consumers in 20 states and the District of Columbia.

**Wilson v. Sony Computer Entertainment, Inc.**, Case No. 444815 (California Superior Court, San Mateo County). Co-Lead Counsel in class action seeking to recover unpaid overtime compensation for computer graphics artists employed in California by Sony Computer Entertainment, Inc. The case was settled for \$8.5 million. In addition, Sony agreed to reclassify class members with a job title of Associate Artist and Artist 1 as nonexempt employees under the wage and hours laws of California and the federal Fair Labor Standards Act.

**In Re Savings Investment Service Corporation Loan Commitment Litigation**, MDL 718 (Western District of Oklahoma). Co-Lead Counsel in securities class action arising from default of \$9.85 million issue of industrial revenue bonds issued to finance a hotel in Westminster, Colorado. After extensive discovery and motion practice we obtained a recovery of approximately \$8.0 million for the class.

**Emulex Shareholder Derivative Cases**, Judicial Coordination Proceeding No. 4194 (California Superior Court, Orange County). Co-Lead Counsel in shareholder derivative actions alleging officer and director breaches of fiduciary and insider trading arising from order delays for optical networking hardware. Although the case was initially stayed, we succeeded in lifting the stay and obtaining over 100,000 pages of company documents, eventually obtaining an \$8 million settlement for the company.

**Garbini v. Protection One, Inc.**, Civil Action No. 99-3755 (Central District of California). Lead Counsel in securities class action arising from three successive restatements of three years’ audited and publicly reported financial results by America’s second-largest home security monitoring company. Plaintiffs asserted claims under Section 11 of the Securities Act of 1933 and Section 10 of the Securities Exchange Act of 1934, alleging use of an excessively long period to amortize the cost of acquired customer accounts. We obtained a settlement of \$7.76 million for the class. In a related appeal, we successfully challenged the dismissal of the company’s auditors, Arthur Andersen. The ruling clarified plaintiffs’ obligations to allege damages under the Securities Act of 1933. **Garbini v. Protection One, Inc.**, 49 Fed.Appx. 169, [2002 Transfer Binder] Fed. Sec. L. Rep.(CCH) ¶92,018 (9<sup>th</sup> Cir. October 11, 2002).

**In Re Providian Financial Corporation Derivative Litigation**, Case No. 401954 (California Superior Court, City and County of San Francisco). Co-Lead Counsel in shareholder derivative action alleging breaches of fiduciary duty and insider trading by officers and directors of a large sub-prime credit card lender. Case arose from company's undisclosed change of accounting for customer bankruptcies and alleged failure to maintain adequate reserves for uncollectible accounts. After extensive document discovery we obtained a settlement of \$6.5 million for the company.

**In Re Structural Dynamics Research Corporation Derivative Litigation**, Case No. C-1-94-650 (Southern District of Ohio). Co-Lead Counsel in shareholder derivative action arising from earnings restatement resulting from accounting fraud in the Far East operations of NASDAQ-listed computer software company. After extensive discovery, we obtained a settlement of \$5.0 million for the company. (SDRC)

**In Re S3 Derivative Litigation**, No. CV-77-0254 (California Superior Court, Santa Clara County). Co-lead counsel in shareholder derivative litigation involving S3, now known as SonicBLUE Corporation, which was a leading manufacturer of graphics accelerator chips. Case arose from earnings restatements and alleged insider trading resulting from improper recognition of revenue on sales in Far East. After discovery, we obtained a cash settlement of \$4.65 million for the company, which represented the bulk of insider trading damages. (SBLU)

**In Re VISX Securities Litigation**. Master File No. C94-2-649-RPA (Northern District of California). Co-Lead Counsel in securities class action arising from misrepresentations as to status of clinical trials by a NASDAQ-listed laser vision correction company. We obtained a settlement of \$4.0 million for the class. (VISX)

**Herron, et al. v. Lark Creek Investment Management Company, et al.**, Case No. CGC-10-496342 (San Francisco Superior Court). Co-Lead Counsel on behalf of Class of investors in the feeder fund Starlight, L.P., which invested nearly all of its assets with Bernie Madoff. The complaint alleged that the feeder fund's auditor was professionally negligent and breached its contract with the feeder fund in issuing "clean" audit opinions on the feeder fund's financial statements between 2003 and 2007. We obtained a settlement of \$3.6 million for the Class.

**Isaac v. Falcon Classic Cable Income Properties, L.P., et al.**, No. BC-177205 (California Superior Court, Los Angeles County). Lead Counsel in class action arising from general partner's purchase of the assets of a cable television limited partnership at allegedly inadequate price. We obtained a recovery of \$2.8 million for the limited partners.

**Bilunka v. Sanders**, [1994-95 Transfer Binder] Fed. Sec. L. Rep. (CCH) ¶98,314 (N.D. Cal. 1994). Co-lead counsel in shareholder derivative action arising from misrepresentations by officers and directors of Advanced Micro Devices, a leading microchip manufacturer, regarding a purportedly "clean" clone of a microchip developed by Intel Corporation. The opinion by Judge Ware of the Northern District of California established two key principles for California derivative cases: (1) California's insider trading statute, Corporations Code §25502.5, applies to California based corporations incorporated in Delaware, and (2) where the board of directors is evenly divided between interested and disinterested members, a shareholder demand upon the board is futile and therefore excused. We ultimately obtained a recovery of \$2.25 million for the company.

**In re IDB Communications Group, Inc. Securities Litigation**, Master File No. CV-94-3618-RG (JGX) (Central District of California). Co-Lead Counsel in shareholder derivative action arising from misleading financial statements issued by NASDAQ-listed telecommunications company. We obtained a settlement of \$2.0 million for the company.

**In re Atchison Casting Corporation Securities Litigation**, Master File No. 01-2013-JWL (District of Kansas). Lead Counsel in a securities class action arising from the restatement of four years' of audited financial results by this Kansas-headquartered operator of 20 ferrous casting facilities, following revelation of accounting improprieties at the company's Pennsylvania Foundry Group. We obtained a settlement of \$1.8 million for the class.

**In Re Bexar County Health Facilities Development Corporation Securities Litigation**, MDL 768 (Eastern District of Pennsylvania). Co-Lead Counsel in securities class action arising from default of industrial revenue bonds issued to finance a retirement facility in San Antonio, Texas. We obtained a settlement of \$1.5 million for the class.

**Eleanor Gorsey, et al. v. I.M. Simon & Co., Inc., et al.**, 121 F.R.D.135 (D. Mass 1988). Co-Lead Counsel in securities class action litigation arising from default of industrial revenue bonds issued to finance a retirement facility in South Bend, Indiana. We obtained a settlement of \$1.2 million for the class.

**Sheehan v. Little Switzerland**, 136 F. Supp. 2d 301 (D. Del 2001). Lead counsel in securities class action arising from failed merger between Little Switzerland, Inc., a duty-free retailer, and Destination Retail Holdings Corporation, a Bahamian retailer. The court upheld plaintiff's claim that the company's disclosures regarding the financing for the merger were false and misleading, and that plaintiff's allegations of wrongful intent satisfied the strict pleading standards of the Private Securities Litigation Reform Act of 1995. We obtained a recovery of \$1.05 million for the class, representing approximately 75% of estimated damages. (LSVI)

**Veterinary Centers of America Securities Litigation**, Case No. BC 178 615 (California Superior Court, Los Angeles County). Lead Counsel in shareholder derivative action arising from misrepresentations and insider trading by officers and directors of publicly traded chain of veterinary hospitals. We obtained a recovery of \$1.0 million for the company. (VCAI)

**Cirrus Logic Securities Litigation**, Master File No. C-95-3978-EAI (Northern District of California). Lead Counsel in shareholder derivative action resulting from overstated financial statements and other violations of generally accepted accounting principles by large manufacturer of multimedia products. We obtained a settlement of \$1.0 million for the company. (CRUS)

Schubert Jonckheer & Kolbe LLP has also participated as counsel in class action or derivative cases involving the following companies:

3M Corporation (MMM)  
aaiPharma Inc. (AAIL)  
ABM Industries Incorporated (ABM)  
Abbott Laboratories, Inc. (ABT)  
Activision, Inc. (ATVI)  
Adaptec, Inc. (ADPT)  
Adobe Systems Incorporated (ADBE)

Adelphia Communications Corporation (ADLA)  
Advanced Micro-Circuits Corporation (AMCC)  
Advanced Micro Devices (AMD)  
Alcatel Alsthom (ALA)  
Amazon.com, Inc. (AMZN)  
America First Financial (AFFZ)  
America Online, Inc. (AOL)  
American Bank Note Holographics, Inc. (ABH)

American Express Company (AXP)	Enron Corporation
American Income Life Insurance Company	Fen-Phen Diet Pill Litigation
Archer-Daniels-Midland Company (ADM)	Fine Host Corp. (FINE)
Ariba, Inc. (ARBA)	First Merchants Acceptance Corp. (FMAC)
Ash Grove Cement Company (ASHG.PK)	First Virtual Communications, Inc. (FVC)
Aspec Technology, Inc. (ASPC)	Flat Glass Antitrust Litigation
Assisted Living Concepts, Inc. (ALF)	FLIR Systems Inc. (FLIR)
Atchison Casting Corp. (FDY)	Ford Motor Company (F)
Aurora Foods, Inc. (AOR)	Formula One Administration, Ltd.
Bay Area Cellular Telephone Co. (BACTC)	FPA Medical Management, Inc. (FPAM)
Blockbuster Video (BBI)	Frederick's of Hollywood
Borders Group, Inc.	Fujitsu Computer Products of America
Boston Scientific Corporation (BSX)	FVC.COM, Inc. (FVCC)
Bre-X Corporation (BXMN)	Gateway, Inc. (GTW)
Broadcom Corporation (BRCM)	Gencor Industries, Inc. (GCRX)
Brocade Communications Systems, Inc. (BRCD)	Genzyme Corporation (GENZ)
California Amplifier, Inc. (CAMP)	Greyhound Lines, Inc. (BUS)
Callidus Software Inc. (CALD)	Guidant Corporation (GDT)
Candies, Inc. (CAND)	H&R Block, Inc. (HRB)
Caremark, Inc. (CMX)	Hanover Compressor Company (HC)
Caremark International Inc.	HealthSouth Corporation (HLSH )
Caribbean Cigar Co. (CIGRD, CIGRW)	Herbalife International, Inc. (HERBA)
Centennial Technologies, Inc. (CENL)	Hewlett-Packard Corporation (HPQ)
Chalone Wine Group Ltd.	The Home Depot, Inc. (HD)
Charles Allmon Trust	Honda Motor Company (HMC)
Chiron Corporation	HPL Technologies, Inc. (HPLA)
Cisco Systems, Inc. (CSCO)	Indianapolis Motor Speedway Corp.
Citizen Utilities Company (CZN)	Impac Mortgage Holdings, Inc. (IMH)
CNF, Inc. (CNF)	Informix Corporation (IFMX)
Complete Management, Inc. (CPMI)	Inso Corporation (INSO)
CompuMed, Inc. (CMPD)	Intel Corporation (INTC)
Coram Healthcare Corporation (CRH)	Intershop Communications AG (ISHP)
Corrpro Cos. Inc. (CO)	Interspeed, Inc. (ISPD)
Creative Technology Ltd. (CREAF)	JDS Uniphase Corporation (JDSU)
Critical Path, Inc. (CPTH)	JWP, Inc.
Cyberguard Corporation (CYBG)	Ketema
Cylink Corporation (CYLK)	Kidder Peabody & Co.
Del Global Technologies Corporation (DGTC)	Kinder Morgan
Digital Equipment Corp. (DEC pa)	Knoll, Inc.(KNL)
Digital Lightwave, Inc. (DIGL)	Koger Properties
Ditech Communications Corp. (DITC)	Legato Systems, Inc. (LGTO)
DoubleClick, Inc. (DCLK)	Lernout & Hauspie Speech Products, N.V. (LHSP)
eBay, Inc. (EBAY)	Littlefield, Adams & Company (FUNW)
Electronic Arts, Inc. (ERTS)	Logitech, Inc.
Employee Solutions, Inc. (ESOL)	
Emulex Corporation (EMLX)	



Louisiana-Pacific Corporation (LPX)	Riverstone Networks, Inc. (RSTN)
Macromedia, Inc. (MACR)	Roberds, Inc. (RBDS)
Marsh & McLennan Companies, Inc. (MMC)	Saf T Lok, Inc. (LOCK)
Martha Stewart Living Omnimedia, Inc. (MSO)	Safeskin Corporation (SFSK)
Maxxam, Inc. (MXM)	Safety-Kleen Corporation (SKLN)
McKesson HBOC, Inc. (HBOC)	Salomon Bros.
Medaphis Corporation (MEDA)	Schlotzsky's Inc. (BUNZ)
Media Vision	Seagate Technology Inc. (SEG)
Med/Waste, Inc. (MWDSE)	Secure Computing Corporation (SCUR)
Mercury Finance Company (MFNNQ)	Shiva Corporation (SHVA)
Mercury Interactive Corporation (MERQ)	Silicon Graphics, Inc. (SGI)
Micron Technology, Inc. (MU)	Silicon Image, Inc. (SIMG)
Mirant Corporation (MIR)	Silicon Storage Technology, Inc. (SSTI)
Mitek Systems, Inc. (MITK)	Sipex Corporation (SIPX)
Molina Healthcare, Inc. (MOH)	Sirena Apparel Group, Inc. (SIRN)
Motorcar Parts & Accessories, Inc. (MPAA)	SmarTalk Teleservice, Inc. (SMTK)
NetManage, Inc. (NETM)	Sonus Networks, Inc. (SONS)
Netopia, Inc. (NTPA)	Sony Computer Entertainment America, Inc.
Network Computing Devices, Inc. (NCDI)	Spanlink Communications, Inc. (SPLK)
Network Solutions, Inc. (NSOL)	Spectrum Information Technologies, Inc. (SITI)
New Century Financial Corporation (NCEN)	Sprint Spectrum L.P. (FON)
Networks Associates, Inc. (NETA)	Star Gas Partners, L.P. (SGU)
Network Solutions, Inc.	Sumitomo Metal Industries, Ltd. (SMMLY)
North Face Inc. (TNFI)	Summit Technology, Inc. (SMCT)
Novartis AG (NVS)	SupportSoft, Inc. (SPRT)
OCA, Inc. (OCA)	Sybase, Inc. (SYBS)
Orbital Sciences Corporation (ORB)	Synchronys Softcorp (SYCR)
Pacific Gateway Enterprises	T2
Pacific Telephone Company	Telebit Corporation
Palm, Inc. (PSRC)	Telxon Corporation (TLXN)
PalmOne, Inc. (PLMO)	Tenera, Inc. (TNR)
PennCorp Financial Group, Inc. (PFG)	Terayon Communication Systems, Inc. (TERN)
PeopleSoft, Inc. (PSFT)	Tibco Software, Inc. (TIBX)
Peregrine Systems, Inc. (PRGN)	Toys R Us, Inc. (TOY)
PerkinElmer, Inc. (PKI)	Tut Systems, Inc. (TUTS)
Philip Services Corporation	TwinLab Corporation (TWLB)
Phycor, Inc. (PHYC)	Unify Corporation (UNFY)
Presstek Inc. (PRST)	U.S. Trust Corporation
Protection One, Inc. (US:POIX)	U.S. West, Inc. (USW)
Providian Financial Corporation (PVN)	U.S. Wireless Corporation
Quaker State Corporation (KSF)	Ventro Corporation
Qwest Communications International Inc. (Q)	Verisign, Inc. (VRSN)
Quantum Corporation (DSS)	Versata, Inc. (VATA)
Quintus Corporation (QNTS)	Websecure, Inc. (WEBS)
Quovadx, Inc. (QVDX)	Worldcom, Inc. (WCOEQ)
Rambus, Inc. (RMBS)	Xicor, Inc.

## ATTORNEYS

**ROBERT C. SCHUBERT** received a B.S. degree from the New York State School of Industrial and Labor Relations at Cornell University in 1966, where he graduated first in his class. He received his J.D. *cum laude* from Harvard Law School in 1969, after which he taught law, first at the Columbia University School of Law (1969-1970), and then at Golden Gate University School of Law (Assistant Professor, 1970-1975). Since that time he has been actively engaged in the practice of law, at both the trial and appellate levels. He specializes in complex litigation, particularly securities and antitrust class actions and shareholder derivative suits. He is a member of the State and Federal bars of California (since 1974), Massachusetts (since 1972) and New York (since 1970). In addition he has been admitted *pro hac vice* in the following courts, among others: United States District Courts for the Eastern District of Pennsylvania, the Middle District of Florida, the Northern District of Georgia, the Southern District of Ohio, the Western District of Oklahoma, the Western District of Washington, the Western and Northern Districts of Texas, the Northern and Central Districts of Illinois, the Northern District of Alabama, the Districts of Colorado, Oregon, Delaware, Utah, Montana, Arizona and New Hampshire, the Superior Courts of Alabama, Alaska, Connecticut, Colorado and Illinois, and the Delaware Court of Chancery. He has participated in discovery proceedings throughout the United States and the United Kingdom. He is also an arbitrator, and since 1971 has arbitrated numerous disputes under the auspices of the Federal Mediation and Conciliation Service. He is the author of several published articles, and lectures on class actions at the University of California, Hastings College of Law.

**WILLEM F. JONCKHEER** received his B.A. degree from Colgate University in 1990. He was awarded his J.D. degree in 1995 from the University of San Francisco School of Law. He has been a law intern with the Pacific Stock Exchange and the U.S. Securities & Exchange Commission. Mr. Jonckheer was admitted to the State Bar of California in 1995.

**MIRANDA P. KOLBE** received her B.A. from Hamilton College. She was awarded her J.D. degree from the University of California at Berkeley, Boalt Hall, where she won the Prosser Prize in Civil Procedure and the Moot Court Advocacy Award. In addition, she served as an Instructor for Boalt's Legal Research and Writing class, and interned at the Prison Law Office in San Quentin, California, while at Boalt. After graduating, she served as a full-time legal researcher in the Civil Division of the San Francisco Superior Court, and then joined Schubert & Reed LLP as an associate in 2001.

**DUSTIN L. SCHUBERT** received his B.A. from University of California at Berkeley in 2003. He was awarded his J.D. degree in 2007 from Vanderbilt University Law School. Mr. Schubert was admitted to the State Bar of California in 2007. Mr. Schubert previously interned with the Superior Court of California in and for the City and County of San Francisco, for the Hon. A. James Robertson II. Mr. Schubert has also interned for Bay Area Legal Aid.

**NOAH SCHUBERT** received his J.D. *cum laude* from the University of San Francisco School of Law in 2011, where he earned CALI Awards for Excellence in Constitutional Law and Civil Procedure and was awarded Best Oral Argument in the USF Moot Court Program. He was admitted to the State Bar of California in 2011. Mr. Schubert served as Editor-in-Chief of the USF Law Review, where he authored a comment on the policy and constitutional implications of

selecting temporary replacements for recused Justices on the U.S. Supreme Court, titled *Replacement Justice on the U.S. Supreme Court: The Use of Temporary Justices to Resolve the Recusal Conundrum*, 46 U.S.F. L. Rev. 215 (2011). Prior to law school, Mr. Schubert worked as the Online Editor for the Center for American Progress in Washington, D.C. and served as the Online Media Manager for the 2004 Democratic National Convention in Boston, MA. He has also served as part of the National Advance Staff for the Kerry-Edwards campaign and former Vice President Al Gore. Mr. Schubert received his B.A. from the University of California, Berkeley in 2003.